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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,624	03/09/2004	Richard Varner	11-00A	4759

23713 7590 01/06/2006

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BOULDER, CO 80301

EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/797,624	Applicant(s) VARNER ET AL.	
	Examiner Christopher J. Novosad	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 12-18 is/are rejected.
- 7) ☒ Claim(s) 3-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/16/04 and 4/5/05 (3 SHEETS TOTAL)</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the Species VII (Figures 7A-7B, claims 1-7) dated December 15, 2005, is acknowledged. The traversal is on the ground(s) that "Two of the species identified in the Election of Species Requirement, Species V, Fig. 6A, and Species XI, Fig. 9B, illustrate 'sandwich' magnet configurations which are not claimed in the application and which the figures identify as 'prior art.'"

In view of the above argument for traversal, the requirement for election of species is hereby modified to **not include** or to drop the requirement as to the species identified as Species V and XI.

Accordingly, the requirement for election of species is still deemed to be proper as to Species I-IV and VI-X, and is therefore made FINAL.

Claims 8-11 stand withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected species. Claims 12-18 are generic to the remaining Species I-IV and VI-X.

An action on Claims 1-7 of the elected species and generic claims 12-18 follows:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 15-18 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which applicant regards as the invention.

The recitation, in lines 1 and 2 of each of these claims, of “at least about” renders the claims indefinite since “at least” sets a minimum standard whereas “about” blurs this minimum standard.

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of Vigne (USP 5,727,717), Gabrielli (USP 4,609,325), or Budreck (USP 2,975,497), each taken alone.

Regarding claims 1, 2 and 12 and dependent method claim 13, each of the above references, Vigne or Gabrielle, discloses a removable piece for a manikin comprising a magnetic assembly having a depth-of-pull sufficient to cause the removable piece to begin to move towards the manikin at a relatively close distance from the manikin such that the removable piece is positioned for mating with an attracted material positioned on said manikin.

Vigne (Figs. 2, 4 and 6, discloses a “removable piece” (removable lower leg 4) which provides a cup-shaped receptacle for holding a magnet 14 in place, and a fixed manikin part

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(upper leg 2, Fig. 1) with a flat-surfaced magnet 20 to which the removable piece (lower leg 4) with magnet 14 is positioned for mating.

Gabrielle (Figs. 1 and 2) discloses a removable piece 12 with cup 8 having a permanent magnet 10 located therein which mates with a cooperating magnet 5 on a robot arm 1.

See also Budreck '497 (Fig. 3) which discloses a removable piece with cup-shaped retainer 32 having a permanent magnet 34 therein which mates with a magnetically-attracted material (Fig. 4, armature 72 having a flat circular bottom 82) contained in another piece 14.

The "cup" disclosed in each reference is considered to serve as a "pole piece" as broadly recited in claim 12. A "pole piece" as broadly recited has no particular structure that distinguishes the recited "cup" from the references. For example, there is no limitation in the claim that the cup serves as a **magnetic** pole piece.

Independent parent claim 12 distinguishes over each of the above references in the reciting that the "magnetic assembly" has a depth-of- pull sufficient to cause the removable piece to begin to move towards the manikin at "a distance from the manikin of more than one-quarter of an inch." Claims 15, 16, 17 and 18, respectively, distinguish over each of the references in reciting that the manikin and removable piece are placed "at least about one half inch apart" (claim 15); "at least about two-thirds inch apart" (claim 16); "at least about three-fourths inch apart" (claim 17); and "at least about one inch apart" (claim 18).

The specific distances recited in the claims merely represent obvious choices in engineering design to one of ordinary skill in the art at the time the invention was made for optimum connector performance and optimum user convenience of the members of the manikin.

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It would therefore have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the specific distances recited above in each of the references for the reasons stated above.

Allowable Subject Matter

Claims 3-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad
Primary Examiner
Art Unit 3671

January 3, 2006